

## **Frederick County Department of Housing and Community Development**

5340 Spectrum Drive, Suite A

Frederick, MD 21703

[www.frederickcountymd.gov/housing](http://www.frederickcountymd.gov/housing)



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### **FREDERICK COUNTY DEVELOPMENT IMPACT FEE EXEMPTION FOR AFFORDABLE HOUSING PROGRAM FACT SHEET**

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#### **Purpose of Program**

The Frederick County Board of County Commissioners (BoCC) has established the Development Impact Fee Exemption for Affordable Housing Program (DIFEP) to assist with the creation of affordable housing by allowing qualifying applicants of residential development to be exempt from the payment of development impact fees if:

1. The residential development is financed, in whole or part, by public funding that requires mortgage restrictions or recorded covenants restricting the rental or sale of the housing units to lower income residents in accordance with specific government program requirements; or
2. The residential development is developed by a nonprofit organization that 1) has been exempt from federal taxation under 501(c)(3) of the Internal Revenue Code for a period of at least 3 years; and 2) requires the homebuyer to participate in the construction of the residential development.

#### **Responsible Parties/Agency**

The Department of Housing and Community Development (DHCD), Citizens Services Division shall administer the DIFEP. Applications for the exemption will be made to DHCD. An exemption determination from DHCD shall be provided to the Division of Permitting and Development Review (DPDR) prior to payment against the building permit. Development Fees to be exempt are for public school and library fees, and current rates are listed on the DPDR web site. Fees may be recaptured via a junior Deed of Trust (DoT)/Note specifying a 0% deferred loan for the amount of fees waived for a control period as outlined below. Fees may be forgiven after the control period if all provisions of public financing regulatory requirements and/or BoCC DoT are met.

#### **Criteria for Rental Project Applicant**

1. Rental project applicant must meet qualifications as defined by authorizing 2008 Maryland General Assembly legislation and be developing rental housing financed by public funding with mortgage restrictions that include a stipulation that the units remain affordable for a minimum of 25 years; and
2. The residential development will serve households with initial incomes in accordance with specific government regulatory requirements, but no greater than 60 percent of

the Washington area median income (AMI) limit set by the U.S. Department of Housing and Urban Development (HUD). See the income limits table on the Housing website.

3. Rental project applicant agrees to provide annual certifications to DHCD of rental project compliance as mandated by public funding agency regulatory agreement and detailed in the BoCC DoT.
4. Once rental project applicant is determined eligible by DHCD, a DoT and Note shall be executed between the rental project applicant and the BoCC for the amount of the exemption. DHCD shall execute the DoT and Note on behalf of the BoCC, with prior written approval from the County Attorney's Office. A written exemption determination from DHCD shall be provided to the Division of Permitting and Development Review (DPDR) as impact fee payment against the building permit. The deferred loan shall be forgiven after 25 years if all provisions of the public financing regulatory requirements and DoT are met. Processes shall be put in place to track the control period of 25 years for rental units.

### **Criteria for Non-profit Organization**

1. Non-profit organization must meet qualifications defined by authorizing 2008 Maryland General Assembly legislation and be developing residential housing to be sold to a qualifying homebuyer:
  - a. Homebuyer applicant must participate in the construction of the home.
  - b. Homebuyer total gross household income must be at or below 60 percent of the Washington AMI limit set by HUD.
2. For homeownership units, fees may be recaptured via a junior Deed of Trust (DoT) and Note specifying a -0-% deferred loan for the amount of impact fees exempt, securing repayment from the non-profit to the BoCC if the home is not sold within one year to a qualified homebuyer. During the one year period, if the non-profit sells the home to a qualified homebuyer, a new DoT will be executed with the homebuyer and the BoCC, and the first DoT with the non-profit will be released. The new DoT and Note with the homebuyer will specify that the deferred loan must be repaid upon sale or transfer of title to the property or any interest in it to any other person or entity; upon refinancing of any senior mortgage; or when the homeowner is no longer the primary occupant, if such activity occurs during the 15 year period, which begins on the day of settlement. After the 15 year period, the deferred loan shall be forgiven if the homeowner remains the primary occupant and all other provisions of the DoT are met.
3. Once certified as eligible, a DoT and Note shall be executed between the Non-profit Organization and the BoCC for the amount of the exemption. DHCD shall execute the DoT and Note on behalf of the BoCC, with prior written approval from the County Attorney's Office. Processes shall be put in place to track the control period of 15 years for homeownership units.

## **Instructions**

Download application from website and complete in full.

### **Rental Project Applicant:**

Submit copy of approval of project by Public Finance Agency  
Submit copy of sample mortgage restrictions or covenants

### **Non-profit Applicants:**

Submit proof of IRS status

### **Submit Application and Attachments to:**

Jennifer Short, Director  
Frederick County Housing and Community Development  
5340 Spectrum Drive, Suite A  
Frederick, Maryland 21703

For further information and questions, contact 301-600-3530 or [jshort@frederickcountymd.gov](mailto:jshort@frederickcountymd.gov)